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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC. and
MVL RIGHTS, LLC,

Plaintiffs,

-against-

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

Civil Action No. 10-141 (CM) (KF)

**DEFENDANTS' OBJECTIONS TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

[Hon. Colleen McMahon]

[ECF Case]

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN M. KIRBY,

Counterclaimants,

-against-

MARVEL ENTERTAINMENT, INC.,
MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC., MVL
RIGHTS, LLC, THE WALT DISNEY
COMPANY and DOES 1 through 10,

Counterclaim-Defendants.

Defendants respectfully submit the following Evidentiary Objections to the evidence offered in support of plaintiffs' motion for summary judgment:

| <u>EVIDENCE</u> | <u>DEFENDANTS' OBJECTION</u> |
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| 1. Declaration of Randi Singer ("Singer Dec."). Ex. 11 | 1. Objection to the extent the clips contained on the disc are incomplete- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802; Authenticity- FRE 901 |
| 2. Singer Dec., Ex. 14 | 2. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 3. Singer Dec., Ex. 15 | 3. Relevance- FRE 402-403; Hearsay- FRE 802; Marvel must be precluded from using this exhibit for failure to timely disclose it before the discovery deadline. |
| 4. Singer Dec., Ex. 18 | 4. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 5. Singer Dec., Ex. 19 | 5. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 6. Singer Dec., Ex. 20 | 6. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 7. Singer Dec., Ex. 21 | 7. Relevance- FRE 402-403; Hearsay- FRE 802 |

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| 8. Singer Dec., Ex. 22 | 8. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 9. Singer Dec., Ex. 23 | 9. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 10. Singer Dec., Ex. 24 | 10. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 11. Singer Dec., Ex. 26 | 11. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 12. Singer Dec., Ex. 27 | 12. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802; Authenticity- FRE 901 |
| 13. Singer Dec., Ex. 29 | 13. Relevance- FRE 402-403; Hearsay- FRE 802; Authenticity- FRE 901 |
| 14. Singer Dec., Ex. 30 | 14. Relevance- FRE 402-403; Hearsay- FRE 802; Authenticity- FRE 901 |
| 15. Singer Dec., Ex. 31 | 15. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 16. Singer Dec., Ex. 32 | 16. Relevance- FRE 402-403; Hearsay- FRE 802 |
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| 17. Singer Dec., Ex. 33 | 17. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 18. Singer Dec., Ex. 34 | 18. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 19. Singer Dec., Ex.35 | 19. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802 |
| 20. Singer Dec., Ex.38 | 20. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 21. Singer Dec., Ex.39 | 21. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802 |
| 22. Singer Dec., Ex. 40 | 22. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 23. Singer Dec., Ex. 41 | 23. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 24. Singer Dec., Ex. 42 | 24. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802 |
| 25. Singer Dec., Ex. 43 | 25. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 26. Singer Dec., Ex. 44 | 26. Relevance- FRE 402-403; Hearsay- FRE 802 |
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| 27. Singer Dec., Ex. 45 | 27. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 28. Singer Dec., Ex. 47 | 28. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 29. Singer Dec., Ex. 50 | 29. The exhibit is illegible and does not appear to be complete; FRE 106; Relevance- FRE 402-403; Hearsay- FRE 80 |
| 30. Singer Dec., Ex. 51 | 30. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 31. Singer Dec., Ex. 52 | 31. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 32. Singer Dec., Ex. 53 | 32. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 33. Singer Dec., Ex. 55 | 33. Relevance- FRE 402-403; Hearsay- FRE 802 |
| 34. Singer Dec., Ex. 56 | 34. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802 |
| 35. Singer Dec., Ex. 57 | 35. Completeness- FRE 106; Relevance- FRE 402-403; Hearsay- FRE 802 |
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| 36. Declaration of Eli Bard (“Bard Dec.”) Ex. 2 | 36. Relevance- FRE 402-403; Hearsay-FRE 802 |
| 37. Bard Dec., Ex. 3 | 37. Relevance- FRE 402-403; Hearsay-FRE 802 |
| 38. Bard Dec., Ex. 4 | 38. Relevance- FRE 402-403; Hearsay-FRE 802 |
| 39. Bard Dec., Ex. 5 | 39. Relevance- FRE 402-403; Hearsay-FRE 802 |
| 40. Bard Dec., Ex. 6 | 40. Relevance- FRE 402-403; Hearsay-FRE 802 |
| 41. Bard Dec., Ex. 7 | 41. Relevance- FRE 402-403; Hearsay-FRE 802 |

Dated: March 25, 2011

Respectfully submitted,
TOBEROFF & ASSOCIATES, P.C.

/s/ Marc Toberoff

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this court.

Dated: March 25, 2011

Respectfully submitted,
TOBEROFF & ASSOCIATES, P.C.

/s/ Marc Toberoff

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